

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN MONTUE,

Petitioner,

No. CIV S-04-1697 FCD JFM P

vs.

MIKE KNOWLES, et al.,

ORDER

Respondents.

_____/

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. By this action, petitioner challenges a decision of a panel of the California Board of Prison Terms to deny him parole. On July 13, 2005, respondents filed a request for leave to file a supplemental answer together with a proposed supplemental answer raising the question of subject matter jurisdiction.

This court finds that the question of the court's subject matter jurisdiction over this action should be resolved before the other matters at bar. Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

1. Within thirty days from the date of this order, respondents shall file a motion to dismiss this action for lack of jurisdiction. Said motion shall be briefed pursuant to the provisions of Local Rule 78-230(m).

2. Respondents' July 13, 2005 request for leave to file a supplemental answer is denied without prejudice.

DATED: July 27, 2005.


UNITED STATES MAGISTRATE JUDGE

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